

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

ATTORNEYS AT LAW

NEW YORK • CALIFORNIA • ILLINOIS • LOUISIANA • DELAWARE

JOHN RIZIO-HAMILTON
johnr@blbglaw.com
212-554-1505

July 24, 2020

VIA ECF

The Honorable Ronnie Abrams, U.S.D.J.
Thurgood Marshall United States District Court
Southern District of New York
40 Foley Square, Room 2203
New York, NY 10007

Re: *In re HeartWare International, Inc Sec. Litig.*, No. 1:16-cv-00520-RA

Dear Judge Abrams:

We represent Lead Plaintiff St. Paul Teachers' Retirement Fund Association in the above-referenced securities class action. On April 3, 2020, Lead Counsel filed a Distribution Motion to request Court approval to distribute the *Heartware* Net Settlement Fund to eligible Claimants recommended for payment by the Claims Administrator. Our Motion can be located by the following ECF reference numbers:

- Notice of Lead Plaintiff's Motion for Approval of Distribution Plan (ECF No. 88);
- Memorandum of Law in Support of Lead Plaintiff's Motion for Approval of Distribution Plan (ECF No. 89);
- Declaration of Richard Simmons in Support of Lead Plaintiff's Motion for Approval of Distribution Plan (ECF No. 90) with Exhibits A – F (ECF No. 90-1 through 90-6); and
- Proposed Order Approving Distribution plan (ECF No. 91)

This Motion is currently pending before the Court. We are writing to request that the Court not rule on the Motion at this time because we plan to withdraw it and file a new distribution motion. We were informed yesterday by Analytics Consulting, LLC, the Court-appointed Claims Administrator, that Analytics had made a calculation error on the Recognized Claim amounts for certain *Timely Eligible Claims* (ECF No. 90-3) and *Late but Otherwise Eligible Claims* (ECF No. 90-4). As a result of this calculation error, some of the Recognized Claim amounts in the Motion will have to be adjusted.

BERNSTEIN LITOWITZ BERGER & GROSSMANN LLP

The Honorable Ronnie Abrams, U.S.D.J.
Southern District of New York
Page 2

Analytics has begun the process of performing the new calculations. Once the new calculations are finished and have been audited, we will promptly submit a new Motion with the corrected calculations.

Thank you for your attention to this matter.

Respectfully submitted,



John Rizio-Hamilton

cc: All Counsel of Record

Plaintiff's application to withdraw the motion for disbursement of funds pending at docket entry 88 is granted. The Clerk of Court is respectfully directed to terminate that motion.

SO ORDERED.



Ronnie Abrams, U.S.D.J.
July 31, 2020